

BOARD MEETING DATE: January 10, 2025

AGENDA NO. 32

PROPOSAL: Determine That Proposed Amended Regulation XXX – Title V Permits, Is Exempt from CEQA; and Amend Regulation XXX

SYNOPSIS: Regulation XXX – Title V Permits establishes provisions for Title V facilities including obtaining a Title V permit and complying with the conditions of the permit. To be consistent with a decision made by the U.S. Supreme Court on U.S. EPA’s Greenhouse Gas Tailoring Rule and Title V operating permit program regulations, Proposed Amended Regulation XXX will remove the emergency affirmative defense and certain greenhouse gas provisions.

COMMITTEE: Stationary Source, November 15, 2024, Reviewed

RECOMMENDED ACTIONS:

Adopt the attached Resolution:

1. Determining that Proposed Amended Regulation XXX – Title V Permits is exempt from the requirements of the California Environmental Quality Act; and
2. Amending Regulation XXX – Title V Permits.

Wayne Natri
Executive Officer

SR:MK:MM:IS:AO

This Board letter serves as the Staff Report for the proposed amendments to Regulation XXX – Title V Permits (PAR XXX).

Background

Regulation XXX – Title V Permits was adopted in 1993 to encompass the permitting process and requirements established by U.S. EPA in the 1990 amendments to the federal Clean Air Act. Title V facilities are defined as major sources that emit the largest quantities of pollutants in South Coast AQMD as determined by meeting and/or surpassing the applicable emission thresholds of any pollutants in Rule 3001–Applicability (Rule 3001). Title V facilities are required to operate in compliance with all terms, requirements, and conditions specified in their respective Title V permit at all

times. There are approximately 310 facilities in South Coast AQMD with Title V permits.

In Rule 3002 – Requirements (Rule 3002), when facing an action alleging non-compliance with a technology-based limitation, Title V facilities can assert an affirmative defense of an emergency if they satisfy the conditions of subdivision (g) – Emergency Provisions. An affirmative defense can be used to mitigate or prevent emission violation penalties if certain conditions are met.

Following court decisions of the U.S. Court of Appeals for the D.C. Circuit – primarily the court’s 2014 decision in *NRDC v. EPA*, 749 F.3d 1055 – U.S. EPA reevaluated its interpretation of the federal Clean Air Act with respect to affirmative defense provisions. On August 21, 2023, U.S. EPA removed the Title V emergency affirmative defense provisions from Title V operating permit program regulations. U.S. EPA also required air pollution control agencies to remove emergency affirmative defense provisions from their Title V permit programs within one year after final rule effective date.¹ U.S. EPA granted South Coast AQMD a one-year extension from the August 21, 2024, deadline.

Rules 3001 and 3002 also include greenhouse gas (GHG) emission provisions that trigger requirements for a facility to obtain a Title V permit. GHG provisions were included in Regulation XXX to address U.S. EPA’s Greenhouse Gas Tailoring Rule. However, in *Utility Air Regulation Group v. EPA*, 573 U.S. 302 (2014), the U.S. Supreme Court held that U.S. EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source that is required to obtain a Prevention of Significant Deterioration or Title V permit.² Therefore, certain provisions of Regulation XXX relative to GHGs are proposed to be deleted.

Public Process

Staff held a Public Workshop on October 2, 2024.

Proposal

Proposed Amended Rule 3002 (PAR 3002) will remove the emergency affirmative defense provisions to be consistent with U.S. EPA’s Title V operating permit program regulations. Following U.S. EPA approval of Proposed Amended Rule 3002 as a revision to the approved Title V program, Title V permits that reference or contain the emergency affirmative defense provisions will be updated to remove such provisions during regular permit renewal or other permit revision, consistent with U.S. EPA guidance. After removal of the emergency affirmative defense provisions, staff still retains the discretion and authority, on a case-by-case basis, to consider emergency circumstances in evaluating ongoing non-compliance and possible violations. To be

¹ <https://www.federalregister.gov/d/2023-15067>

² <https://www.epa.gov/nsr/clean-air-act-permitting-greenhouse-gases>

consistent with the U.S. Supreme Court’s decision, PAR 3002 will also remove provisions related to U.S. EPA’s Greenhouse Gas Tailoring Rule that trigger requirements for a facility to obtain a Title V permit.

Four additional Regulation XXX rules will also be amended to remove or update provisions related to the deletion of the emergency affirmative defense and certain GHG provisions. Proposed Amended Rule 3001 – Applicability (PAR 3001) will remove a provision triggering Title V permit applicability when GHG emission thresholds are exceeded as well as associated rule language in subdivision (d) – Exemptions. Proposed Amended Rule 3003 – Applications (PAR 3003) will correct a reference to Rule 3002. Proposed Amended Rule 3004 – Permit Types and Content (PAR 3004) will remove references to the emergency affirmative defense provisions in Rule 3002. Proposed Amended Rule 3008 – Potential to Emit Limitations (PAR 3008) will remove the GHG emission threshold for Title V permit applicability and GHG emission limits derived from the GHG Tailoring Rule.

Key Issues

Staff is not aware of any key remaining issues.

California Environmental Quality Act (CEQA)

Pursuant to the California Environmental Quality Act (CEQA) Guidelines Sections 15002(k) and 15061, Proposed Amended Regulation XXX is exempt from CEQA pursuant to CEQA Guidelines Sections 15061(b)(3), 15308, and 15321. Further, there is no substantial evidence that any of the exceptions, as set forth in CEQA Guidelines Section 15300.2, apply to the proposed project. A Notice of Exemption has been prepared pursuant to CEQA Guidelines Section 15062 and is included as Attachment G of this Board Letter. If the proposed project is approved, the Notice of Exemption will be filed with the county clerks of Los Angeles, Orange, Riverside, and San Bernardino counties, and with the State Clearinghouse of the Governor’s Office of Planning and Research.

Socioeconomic Impact Assessment

The proposed amendments to Regulation XXX are administrative in nature, do not affect air quality or emission limitations, and thus, will not result in socioeconomic impacts. Therefore, a socioeconomic impact assessment is not required under Health and Safety Code Sections 40440.8 and 40728.5.

Comparative Analysis

Health and Safety Code Section 40727.2(g) is applicable to Proposed Amended Regulation XXX. Therefore, a comparative analysis is not required because Proposed Amended Regulation XXX does not impose a new or more stringent emissions limit or standard, or a new or more stringent monitoring, reporting, or recordkeeping requirement.

AQMP and Legal Mandates

The Health and Safety Code requires the South Coast AQMD to adopt an Air Quality Management Plan (AQMP) to meet state and federal ambient air quality standards in the South Coast Air Basin. In addition, the Health and Safety Code requires the South Coast AQMD to adopt rules and regulations that carry out the objectives of the AQMP. Proposed Amended Regulation XXX is not part of any control measure in the 2022 AQMP.

Resource Impacts

Existing staff resources are adequate to implement the recommended actions.

Attachments

- A. Summary of Proposal
- B. Key Issues and Responses
- C. Rule Development Process
- D. Key Contacts List
- E. Resolution
- F1. Proposed Amended Rule 3001
- F2. Proposed Amended Rule 3002
- F3. Proposed Amended Rule 3003
- F4. Proposed Amended Rule 3004
- F5. Proposed Amended Rule 3008
- G. Notice of Exemption from CEQA
- H. Board Presentation

ATTACHMENT A
SUMMARY OF PROPOSAL

Proposed Amended Regulation XXX – Title V Permits

- PAR 3001 removes GHGs from triggering Title V permit applicability
- PAR 3002 removes emergency affirmative defense provisions and GHGs from triggering Title V permit applicability
- PAR 3003 corrects a reference to Rule 3002
- PAR 3004 removes references to the emergency affirmative defense provisions
- PAR 3008 removes GHG emission threshold for Title V applicability and a related requirement

**ATTACHMENT C
RULE DEVELOPMENT PROCESS**

Proposed Amended Regulation XXX – Title V Permits



Five (5) months spent in rule development

One (1) Public Workshop

One (1) Stationary Source Committee Meeting

ATTACHMENT D
KEY CONTACTS LIST

Proposed Amended Regulation XXX – Title V Permits

Air Products Manufacturing

Clean Water SoCal

Glendale Water & Power

PBF Energy

Southern California Edison

United States Environmental Protection Agency

Western States Petroleum Association

ATTACHMENT E

RESOLUTION NO. 25-_____

A Resolution of the Governing Board of the South Coast Air Quality Management District (South Coast AQMD) determining that Proposed Amended Regulation XXX – Title V Permits, is exempt from the requirements of the California Environmental Quality Act (CEQA).

A Resolution of the South Coast AQMD Governing Board amending Regulation XXX – Title V Permits.

WHEREAS, the South Coast AQMD Governing Board finds and determines that Proposed Amended Regulation XXX is considered a "project" as defined by CEQA; and

WHEREAS, the South Coast AQMD has had its regulatory program certified pursuant to Public Resources Code Section 21080.5 and CEQA Guidelines Section 15251(l), and has conducted a CEQA review and analysis of the proposed project pursuant to such program (South Coast AQMD Rule 110); and

WHEREAS, the South Coast AQMD Governing Board finds and determines that after conducting a review of the proposed project in accordance with CEQA Guidelines Section 15002(k) – General Concepts, the three-step process for deciding which document to prepare for a project subject to CEQA, and CEQA Guidelines Section 15061 – Review for Exemption, procedures for determining if a project is exempt from CEQA, that Proposed Amended Regulation XXX is exempt from CEQA; and

WHEREAS, the South Coast AQMD Governing Board finds and determines that, since Proposed Amended Regulation XXX will make administrative clarifications which will not require physical modifications, it can be seen with certainty that implementing the proposed project would not cause a significant adverse effect on the environment; therefore, the proposed project is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) – Common Sense Exemption; and

WHEREAS, the South Coast AQMD Governing Board finds and determines that the proposed project is also categorically exempt from CEQA pursuant to CEQA Guidelines Section 15308 – Actions by Regulatory Agencies for the Protection of the Environment, because Proposed Amended Regulation XXX is designed to further protect or enhance the environment; and

WHEREAS, the South Coast AQMD Governing Board finds and determines that the proposed project is also categorically exempt from CEQA pursuant to CEQA Guidelines Section 15321 – Enforcement Actions by Regulatory Agencies because Proposed Amended Regulation XXX clarifies the enforcement requirements; and

WHEREAS, the South Coast AQMD Governing Board has determined that there is no substantial evidence indicating that any of the exceptions set forth in CEQA Guidelines Section 15300.2 – Exceptions, apply to the proposed project; and

WHEREAS, the South Coast AQMD staff has prepared a Notice of Exemption for the proposed project, that is completed in compliance with CEQA Guidelines Section 15062 – Notice of Exemption; and

WHEREAS, Proposed Amended Regulation XXX and supporting documentation, including but not limited to, the Notice of Exemption and the Board Letter, were presented to the South Coast AQMD Governing Board and the South Coast AQMD Governing Board has reviewed and considered this information, as well as has taken and considered staff testimony and public comment prior to approving the proposed project; and

WHEREAS, the South Coast AQMD Governing Board finds and determines, taking into consideration the factors in Section (d)(4)(D) of the Governing Board Procedures (Section 30.5(4)(D)(i) of the Administrative Code), that there were no modifications to Proposed Amended Regulation XXX since the notice of public hearing was published; and

WHEREAS, Proposed Amended Rule 3001, Proposed Amended Rule 3002, Proposed Amended Rule 3003, and Proposed Amended Rule 3004 will be submitted as program revisions to the approved Title V program; and

WHEREAS, Health and Safety Code Section 40727 requires that prior to adopting, amending, or repealing a rule or regulation, the South Coast AQMD Governing Board shall make findings of necessity, authority, clarity, consistency, non-duplication, and reference based on relevant information presented at the public hearing, in the rulemaking record, and in the Final Staff Report; and

WHEREAS, the South Coast AQMD Governing Board has determined that a need exists to amend Regulation XXX to address U.S. Environmental Protection Agency’s mandate for regulatory agencies to remove emergency affirmative defense provisions in the Title V operating permit program regulations, as well as the U.S. Supreme Court’s decision regarding the U.S. Environmental Protection Agency’s Greenhouse Gas provisions; and

WHEREAS, the South Coast AQMD Governing Board has determined that there is a problem that Proposed Amended Regulation XXX will alleviate, namely to ensure consistency with U.S. Environmental Protection Agency and a ruling by the U.S. Supreme Court; and

WHEREAS, the South Coast AQMD Governing Board obtains its authority to adopt, amend, or repeal rules and regulations from Health and Safety Code Sections 39002, 40000, 40001, 40440, 40702, 40725 through 40728, 41508, and 41700; and

WHEREAS, the South Coast AQMD Governing Board has determined that Proposed Amended Regulation XXX is written and displayed so that the meaning can be easily understood by persons directly affected by it; and

WHEREAS, the South Coast AQMD Governing Board has determined that Proposed Amended Regulation XXX is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, and federal or state regulations; and

WHEREAS, the South Coast AQMD Governing Board has determined that Proposed Amended Regulation XXX does not impose the same requirements as any existing state or federal regulation, and the proposed amendments are necessary and proper to execute the powers and duties granted to, and imposed upon, the South Coast AQMD; and

WHEREAS, the South Coast AQMD Governing Board, in amending Regulation XXX, the South Coast AQMD Governing Board references the following rule, which the South Coast AQMD hereby implements, interprets, enforces, or makes specific: U.S. Environmental Protection Agency 40 CFR Parts 52.21, 70, and 71; and

WHEREAS, the South Coast AQMD Governing Board finds that no comparative analysis pursuant to Health and Safety Code Section 40727.2 is required because Proposed Amended Regulation XXX contains changes which are administrative in nature and do not impose a new emission limit or standard, make an existing emission limit or standard more stringent, or impose new or more stringent monitoring, reporting, or recordkeeping requirements; and

WHEREAS, the South Coast AQMD Governing Board finds that no socioeconomic impact assessment for Proposed Amended Regulation XXX is required per Health and Safety Code Sections 40440.8 and 40728.5 because the proposed amendments are administrative in nature and will not significantly affect air quality or emissions limitations such that no adverse socioeconomic impacts are expected; and

WHEREAS, the South Coast AQMD Governing Board finds that analyses for cost-effectiveness and incremental cost-effectiveness consistent with the Health and Safety Code Section 40920.6 are not required because Proposed Amended Regulation XXX does not include new Best Available Retrofit Control Technology requirements nor a feasible measure pursuant to Health and Safety Code Section 40914; and

WHEREAS, the South Coast AQMD staff conducted a Public Workshop regarding Proposed Amended Regulation XXX on October 2, 2024; and

WHEREAS, the Public Hearing has been properly noticed in accordance with the provisions of Health and Safety Code Sections 40725 and 40440.5; and

WHEREAS, the South Coast AQMD Governing Board has held a Public Hearing in accordance with all provisions of state and federal law; and

WHEREAS, the South Coast AQMD Governing Board specifies the Planning, Rule Development and Implementation Manager overseeing the development of Proposed Amended Regulation XXX as the custodian of the documents or other materials which constitute the record of proceedings upon which the adoption of this proposed project is based, which are located at the South Coast Air Quality Management District, 21865 Copley Drive, Diamond Bar, California; and

NOW, THEREFORE BE IT RESOLVED, that the South Coast AQMD Governing Board does hereby determine, pursuant to the authority granted by law, that the proposed project, Proposed Amended Regulation XXX, which includes Proposed Amended Rules 3001, 3002, 3003, 3004, and 3008, is exempt from CEQA pursuant to CEQA Guidelines Sections 15061(b)(3) – Common Sense Exemption. The South Coast AQMD Governing Board does also hereby determine, pursuant to the authority granted by law, that the proposed project is categorically exempt from CEQA pursuant to CEQA Guidelines Section 15308 – Actions by Regulatory Agencies for Protection of the Environment, and CEQA Guidelines Section 15321 – Enforcement Actions by Regulatory Agencies. No exceptions to the application of the categorical exemptions as set forth in CEQA Guidelines Section 15300.2 – Exceptions, apply to the proposed project. This information was presented to the South Coast AQMD Governing Board, whose members exercised their independent judgement and reviewed, considered, and approved the information therein prior to acting on Proposed Amended Regulation XXX; and

BE IT FURTHER RESOLVED, that the South Coast AQMD Governing Board does hereby adopt, pursuant to the authority granted by law, Proposed Amended Regulation XXX as set forth in the attached, and incorporated herein by reference; and

BE IT FURTHER RESOLVED, that the South Coast AQMD Governing Board requests that Proposed Amended Rule 3001, Proposed Amended Rule 3002, Proposed Amended Rule 3003, and Proposed Amended Rule 3004 be submitted as program revisions to the Title V program; and

BE IT FURTHER RESOLVED, that the Executive Officer is hereby directed to forward a copy of this Resolution and Proposed Amended Rule 3001, Proposed Amended Rule 3002, Proposed Amended Rule 3003, Proposed Amended Rule 3004 and supporting documentation to California Air Resources Board for approval and subsequently submitted to the U.S. Environmental Protection Agency as program revisions to the Title V program.

DATE: _____

CLERK OF THE BOARDS

ATTACHMENT F1

(Adopted October 8, 1993)(Amended August 11, 1995)
 (Amended November 14, 1997)(Amended November 5, 2010)
 (Amended December 4, 2020)(Amended TBD)

[RULE INDEX TO BE ADDED AFTER RULE ADOPTION]

PROPOSED AMENDED RULE 3001. APPLICABILITY

(a) Phase One Title V Permits

Prior to December 4, 2020, operators of facilities that have, in 1992 or later, reported annual emissions equal to or greater than any of the threshold amounts shown in Table 1 shall submit initial Title V applications to the Executive Officer and obtain Title V permits in accordance with the timelines specified in Rule 3003 - Applications.

TABLE 1

Emission Threshold Levels for Facilities During Phase One

Based on Actual Reported Emissions in tons per year (tpy) per Facility Location

Pollutant	Actual Reported Emission Threshold Levels Per Facility Location		
	South Coast Air Basin (tpy)	Riverside County Portion of Salton Sea Air Basin (tpy)	Non-Palo Verde, Riverside County Portion of Mojave Desert Air Basin (tpy)
VOC	8	20	80
NO _x	8	20	80
SO _x	80	80	80
CO	40	80	80
PM-10	56	56	80
Single HAP	8	8	8
Combination of HAPs	20	20	20

(b) Phase Two Title V Permits

(1) Operators of facilities, not subject to the provisions of subdivision (a) of this rule, with the potential to emit any regulated air pollutant at, or greater than, any of the threshold amounts shown in Table 2 shall submit to the Executive

Officer applications for initial Title V permits in accordance with the timelines specified in Rule 3003 - Applications, and obtain Title V permits within five years after the effective date, as defined in paragraph (b)(8) of Rule 3000.

- (2) For the purpose of this subdivision, the potential to emit for a RECLAIM pollutant from a RECLAIM facility is the higher of:
 - (A) the starting allocation plus nontradeable credits; or
 - (B) RECLAIM Trading Credits (RTC) held in the allocation account after any trading.

RTCs held in the certificate account are not part of the allocation.

TABLE 2

Emission Threshold Levels for Facilities During Phase Two

Based on Potential to Emit in tons per year (tpy) per Facility Location

Pollutant	Potential to Emit Emission Threshold Levels Per Facility Location		
	South Coast Air Basin (tpy)	Riverside County Portion of Salton Sea Air Basin (tpy)	Non-Palo Verde, Riverside County Portion of Mojave Desert Air Basin (tpy)
VOC	10	10	100
NO _x	10	10	100
SO _x	100	100	100
CO	50	100	100
PM-10	70	70	100
Single HAP	10	10	10
Combination of HAPs	25	25	25

- (c) **Additional Facilities Requiring Title V Permits**

In addition to subdivisions (a) and (b) of this rule, operators of the following facilities shall submit applications to the Executive Officer to obtain Title V permits in accordance with the timelines specified in Rule 3003 - Applications, or with federal regulations:

- (1) All new facilities that have a potential to emit any regulated air pollutant at, or greater than, any of the levels specified in Table 2 of subdivision (b) of this rule, and for which applications for permits to construct and permits to operate are deemed complete after March 31, 2000;
- (2) All facilities initially not subject to Title V requirements, that after installation or modification of equipment would have a potential to emit any regulated air pollutant at, or greater than, any of the levels specified in Table 2 of subdivision (b) of this rule, and for which applications for permits to construct or permits to operate are deemed complete after March 31, 2000;
- (3) All "affected sources" as defined under the acid rain provisions of Title IV of the federal Clean Air Act and 40 CFR Part 70, Section 70.2;
- (4) Solid waste incineration units required to obtain a permit pursuant to Section 129(e) of the federal Clean Air Act;
- (5) All facilities subject to a standard, limitation, or other requirement of the New Source Performance Standards in 40 CFR Part 60 or National Emission Standards for Hazardous Air Pollutants in 40 CFR Part 61 or Part 63 that are specifically required by federal regulation to obtain a Title V permit; and,
- (6) All other facilities so designated by the EPA by future amendments to 40 CFR Part 70, Section 70.3.
- (7) All facilities that have obtained a District facility permit with a condition limiting facility emissions for the purpose of being exempt from Title V permit requirements pursuant to paragraph (d)(2) of this rule, and that have reported annual emissions, calculated in accordance with permit terms and conditions under normal operating conditions, equal to or greater than any of the threshold amounts specified in Table 2 of subdivision (b) of this rule.
- (8) On and after January 2, 2011, applicable requirements for greenhouse gases shall be included in Title V permits for any facility that is otherwise required, after that date, to obtain a new, renewed, or revised Title V permit pursuant to subdivision (a) of this rule.
- ~~(9) On and after July 1, 2011, any facility with a potential to emit $\geq 100,000$ tpy CO_{2e}, on a CO_{2e} basis (Global Warming Potential applied) and a Potential to Emit GHGs > 100 tpy GHGs on a mass basis (no Global Warming Potential applied) shall apply for a Title V permit within 180 days after July 1, 2011, unless a Title V permit has already been applied for.~~

(d) Exemptions

- (1) Notwithstanding subdivision (b) of this rule, facilities that would be required to obtain a Title V permit solely because they are subject to one or more of the following regulations are exempt from Title V permit requirements:
 - (A) 40 CFR Part 60, subpart AAA - Standards of Performance for New Residential Wood Heaters;
 - (B) 40 CFR Part 61, subpart M - National Emission Standard for Hazardous Air Pollutants for Asbestos, Section 61.145 - Standard for Demolition and Renovation.
- (2) Facilities subject to the requirements of subdivision (a) (b) or (c) of this rule, that demonstrate to the satisfaction of the Executive Officer that the facility's potential to emit has been reduced, either through a facility modification or by accepting an enforceable condition in the District facility permit, to less than the levels for all air contaminants specified in Table 2 of subdivision (a) of this rule, ~~and the PTE is less than 100,000 tpy CO_{2e} GHGs,~~ are exempt from Title V permit requirements.

(e) Phase One Exclusions

- (1) Except in the case of an affected source under the acid rain program, an applicant may request, and the Executive Officer may grant an exclusion from subdivision (a) of this rule, Phase One Title V Permits, provided that the facility can demonstrate to the satisfaction of the Executive Officer that:
 - (A) the most recent, validated, reported emissions are less than the thresholds in subdivision (a); and
 - (B) a permanent change has occurred at the facility to explain the reduction in reported emissions.
- (2) All requests for exclusion shall be in a form specified by the Executive Officer, shall include copies of reported emissions data and are subject to approval by the Executive Officer.

ATTACHMENT F2

(Adopted October 8, 1993)(Amended August 11, 1995)
(Amended November 14, 1997)(Amended November 5, 2010) (Amended TBD)

[RULE INDEX TO BE ADDED AFTER RULE ADOPTION]

PROPOSED AMENDED RULE 3002. REQUIREMENTS

- (a) Requirement for Title V Permit
- (1) A person shall not construct, modify, relocate, or operate a Title V facility, or equipment located at a Title V facility, without first obtaining a Title V permit or permit revision that allows such construction, modification, relocation or operation, except for:
 - (A) Equipment exempted from permitting requirements pursuant to Rule 219 - Equipment Not Requiring a Written Permit Pursuant to Regulation II;
 - (B) Operation of equipment or a facility pursuant to the application shield provisions of subdivision (b) of this rule; and,
 - (C) Construction, modification, relocation and operation of equipment or a facility authorized by a non-Title V permit issued by the Executive Officer. The Executive Officer may issue a non-Title V permit to existing Phase One or Phase Two facilities that apply for a non-Title V permit prior to the issuance of their initial Title V permit.
 - (2) On and after January 2, 2011, applicable requirements for greenhouse gases shall be included in Title V permits for any facility that is otherwise required, after that date, to obtain a new, renewed, or revised Title V permit pursuant to paragraph (a)(1) of this rule.
 - ~~(3) On and after July 1, 2011, any facility with a potential to emit $\geq 100,000$ tpy CO_{2e}, on a CO_{2e} basis (Global Warming Potential applied) and a Potential to Emit GHGs > 100 tpy GHGs on a mass basis (no Global Warming Potential applied) shall apply for a Title V permit within 180 days after July 1, 2011, unless a Title V permit has already been applied for, and all GHG requirements that are applicable requirements (as defined in Rule 3000 (b)(4)) shall be included in the permit.~~
 - ~~(4) On and after July 1, 2011, any new or modified facility with a Potential to Emit increase of $\geq 100,000$ tpy CO_{2e} shall be subject to the requirements specified in paragraph (a)(1) of this rule.~~

(b) Application Shield

Notwithstanding subdivision (a) of this rule, it is not a violation of this rule to operate a Title V facility or equipment located at a Title V facility without a Title V permit, provided that:

- (1) A timely and complete application for initial Title V permit issuance or Title V permit renewal for such facility or equipment has been filed with the Executive Officer; and
- (2) The Executive Officer has not taken final action on the application.

For the purpose of an application shield, a timely and complete application is one that has been submitted in accordance with subdivisions (a) and (c) of Rule 3003. The application shield shall not apply if the permit applicant has failed to submit information required pursuant to subdivision (d) of this rule.

(c) Duty to Comply

- (1) A person shall construct and operate a Title V facility and all equipment located at a Title V facility in compliance with all terms, requirements, and conditions specified in the Title V permit at all times.
- (2) Any non-compliance with a Title V facility permit term, requirement, or condition is a violation of Regulation XXX and is a violation of the federal Clean Air Act if the permit term, requirement or condition is federally enforceable. Each day during any portion of which a violation occurs is a separate offense. Any non-compliance shall be grounds for:
 - (A) enforcement action (under the California Health & Safety Code and the federal Clean Air Act);
 - (B) permit termination;
 - (C) permit revocation and reissuance;
 - (D) permit revision; and
 - (E) denial of a permit renewal or revision application.
- (3) It shall not be a defense for a person in any of the actions listed in paragraph (c)(2) of this rule that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit, ~~except as provided for in subdivision (g) of Rule 3002.~~
- (4) A permit may be revised, revoked, reopened and reissued, or terminated for cause as provided in Rule 3004 - Permit Types and Content, and Rule 3005

- Permit Revisions. The filing of a request by the holder of a Title V permit, for a permit revision, revocation and reissuance, or termination, or of a notification of planned changes or anticipated non-compliance does not stay any permit condition.

(d) Duty to Provide Timely Information

An applicant for, or holder of, a Title V permit shall furnish to the Executive Officer within a reasonable time, as specified by the Executive Officer in writing, any information that the Executive Officer requests in writing to process a permit application or to determine whether cause exists for revising, revoking and reissuing, or terminating the permit, or to determine compliance with the permit.

(e) Duty to Provide Records

A holder of a Title V permit shall furnish to the Executive Officer within a reasonable time, as specified by the Executive Officer in writing, copies of records that are required, by the permit, to be kept. Copies of information claimed to be confidential shall be submitted in a form segregated from other information, conspicuously marked "confidential" on each page, with a concise identification of the basis for the claim.

(f) Duty to Pay Fees

- (1) The applicant for, or holder of, a Title V permit shall pay all required fees as specified in Regulation III - Permit Fees.
- (2) Failure to pay fees in compliance with paragraph (f)(1) of this rule shall be grounds for permit expiration or revocation of the subject permit(s).

~~(g) Emergency Provisions~~

~~An emergency shall constitute an affirmative defense to an action brought for non-compliance with a technology based limitation if all of the following conditions are met:~~

- ~~(1) Properly signed, contemporaneous operating logs or other credible evidence that demonstrates compliance with this subdivision are kept at the facility;~~
- ~~(2) The owner/operator of a Title V facility demonstrates that an emergency occurred and that the permit holder can identify the cause(s) of the emergency;~~

- ~~(3) — During the period of the emergency, the facility permit holder took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit;~~
- ~~(4) — The owner/operator of a Title V facility submitted a written notice of the emergency to the District within two working days of the time when emission limitations were exceeded due to the emergency. This notice shall contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken;~~
- ~~(5) — The permitted facility was being operated properly (i.e., operated and maintained in accordance with the manufacturer's specifications, and in compliance with all regulatory requirements or a compliance plan) before the emergency; and~~
- ~~(6) — The facility complies with the breakdown provision of Rule 430 — Breakdown Provisions, or subdivision (i) of Rule 2004 — Requirements, whichever is applicable.~~

~~In any enforcement proceeding, the facility permit holder seeking to establish the occurrence of an emergency shall have the burden of proof.~~

ATTACHMENT F3

(Adopted October 8, 1993)(Amended August 11, 1995)
(Amended November 14, 1997)(Amended March 16, 2001)
(Amended November 5, 2010)(Amended TBD)

[RULE INDEX TO BE ADDED AFTER RULE ADOPTION]

PROPOSED AMENDED RULE 3003. APPLICATIONS

(a) Application Requirements

The operator of a Title V facility shall submit a timely and complete Title V permit application in accordance with this rule.

(1) Facilities Applying for Initial Title V Permits During Phase One

(A) For facilities required to obtain initial Title V permits pursuant to subdivision (a) of Rule 3001 and that are specifically identified by the District on or before the effective date as defined in paragraph (b)(8) of Rule 3000, a timely initial permit application is one submitted to the Executive Officer within 90 days of receipt of the District's notice to the facility with facility-specific application materials, or within one year from the effective date, whichever comes first.

(B) For all other facilities required to obtain initial Title V permits pursuant to subdivision (a) of Rule 3001, a timely initial permit application is one that is submitted within 180 days after the facility becomes subject to the Title V permit program.

(2) Facilities Applying for Initial Title V Permits During Phase Two

(A) For existing facilities required to obtain initial Title V permits pursuant to subdivision (b) of Rule 3001, a timely initial permit application is one submitted to the Executive Officer within 90 days of receipt of the District's notice to the facility with facility-specific application materials, or no later than June 30, 2001, whichever occurs first.

(B) For all other facilities required to obtain initial Title V permits pursuant to subdivision (b) of Rule 3001, a timely initial permit application is one that is submitted within 180 days after the facility becomes subject to the Title V permit program.

(3) Additional Facilities Applying for Initial Title V Permits

Except as set forth elsewhere in this subdivision or in subdivision (c) of this rule, a timely initial permit application is one that is submitted within 180 days after the facility becomes subject to the Title V permit program.

- (4) A person who has filed a timely and complete application for an initial Title V permit with the Executive Officer shall be allowed to amend the initial Title V facility permit application if non-Title V Permits to Construct pursuant to Rule 201 or Permits to Operate pursuant to Rule 203 were issued 30 days or more prior to the scheduled issuance of the initial proposed permit for public review.
- (5) A person electing to apply for a non-Title V permit, as allowed by paragraph ~~(a)(3)~~(a)(1)(C) of Rule 3002, that is issued too late to be incorporated into the initial permit application in accordance with paragraph (a)(4) of this rule, shall file an application for a Title V permit revision within 90 days of the issuance of a facility's initial Title V permit.
- (6) For purposes of permit renewal, a timely application is one that is submitted at least 180 days, but no more than 545 days, prior to the date of permit expiration.
- (7) For facilities which are, or include, major sources (as defined in Section 70.2 of 40 CFR Part 70) in categories or subcategories for which EPA has failed to promulgate a maximum achievable control technology emissions standard by the date established pursuant to subsections (e)(1) and (e)(3) of Section 112 of the federal Clean Air Act, a timely application for a facility permit or permit revision, as appropriate, is one which is submitted within 18 months of such failure, and which complies with Section 112 of the federal Clean Air Act.

(b) Application Content

(1) Initial Permit and Permit Renewal Applications

An applicant shall submit, on forms specified by the Executive Officer and approved by EPA, all information necessary to evaluate the subject facility and the application, to determine the applicability of and to impose all regulatory requirements, and to determine the fee amounts required pursuant to Regulation III - Permit Fees.

(2) Permit Revision Applications

The applicant shall submit the same information as specified in paragraph (b)(1) of this rule, but only to the extent that such information is related to

the permit revision. If applicable, information required by paragraphs (c)(2), (d)(2), and (e)(2) of Rule 3005 shall also be provided.

(c) Complete Application

- (1) The Executive Officer shall, upon receipt of any application, promptly determine whether the application is complete pursuant to the criteria set forth in the Technical Guidance Document.
- (2) Unless the Executive Officer determines that an application is not complete within 60 days of receipt of the application for initial permit issuance or permit renewal, or within 30 days of receipt for permit revisions, such application shall be deemed to be complete.
- (3) If the application is determined to be incomplete, the Executive Officer shall notify the applicant in writing what additional information is necessary to make the application complete and shall specify in writing a reasonable deadline for providing such information.
- (4) If the applicant does not provide all requested information on or before the deadline specified, the Executive Officer may deny the application. The Executive Officer may extend the initial deadline if requested by the applicant.
- (5) To be deemed complete, an application must provide all information required pursuant to subdivision (b) of this rule.
- (6) An applicant shall provide application statements and information that are true, accurate, and complete, based on information and belief formed after reasonable inquiry.
- (7) The responsible official shall certify all information provided as part of a permit application, a supplement or correction pursuant to subdivision (d) of this rule, or in response to a request for information from the Executive Officer. The certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

(d) Duty to Supplement or Correct Application

- (1) Any applicant for, or holder of, a Title V permit who fails to submit any relevant information or who has submitted incorrect information in an application for a permit or permit revision shall, upon becoming aware of

such failure or incorrect submittal, promptly submit such supplementary facts or corrected information.

- (2) An applicant shall provide such additional information as necessary to determine compliance with any requirements that became applicable to the facility after the date a complete application was filed but prior to release of a proposed permit.

(e) Requests for Additional Information

- (1) Even after an application is deemed complete, an applicant shall provide such additional information as has been requested in writing by the Executive Officer as necessary to evaluate or take final action on the application, on or before the reasonable deadline specified in the request.
- (2) The facility's ability to operate without a permit, as set forth in subdivision (b) of Rule 3002 shall terminate at 5:00 p.m. on the date specified by the Executive Officer unless the applicant has, on or before that time provided all information requested by the Executive Officer pursuant to either paragraph (e)(1) of this rule, or subdivision (d) of Rule 3002.

(f) Confidential Information

Whenever an applicant for, or holder of, a Title V permit submits information to the Executive Officer in connection with a Title V permit application under a claim of confidentiality, such applicant or permit holder may be required, by the Executive Officer, to submit a copy of such information directly to the EPA Administrator, along with a concise statement of the basis of such claim of confidentiality.

(g) Sharing of Information

- (1) Except as provided in paragraph (g)(2) of this rule, any information obtained from a facility or used in the administration of the Title V permit program shall be made available without restriction to EPA upon request.
- (2) Where the Executive Officer submits information to the EPA under a claim of confidentiality, the Executive Officer shall provide a copy of such claim if made by a third party, or a concise statement of the basis of such claim, if made by the Executive Officer.

(h) Preservation of New Source Review

The submittal of a complete Title V permit application, or application for revision of such permit, shall not relieve any person of the requirements for a pre-construction permit under Title I of the federal Clean Air Act, District Regulation XIII - New Source Review, or District Rule 2005 - New Source Review For RECLAIM.

(i) Action on Applications

(1) The Executive Officer shall deny an application for initial permit, permit revision, or permit renewal if the applicant cannot show that operation under the permit will comply with all regulatory requirements, unless:

(A) the District Hearing Board has issued a valid variance granted pursuant to Rule 515 or Rule 517, order for abatement which has the effect of a variance pursuant to Regulation VIII, or federal alternative operating condition established pursuant to Rule 518.2 for those regulatory requirements for which the facility is not in compliance; and

(B) the facility operator has submitted with the Title V permit application an acceptable compliance plan.

(2) Except during the 3-year, Phase One period for initial permit issuance, following the effective date, and for applications identified in paragraph (i)(3) of this rule, the Executive Officer shall issue a permit or deny a permit application according to the following schedule:

(A) Applications for initial permits, significant permit revisions and permit renewals: within 18 months after receipt of a complete application pursuant to subdivision (c) of this rule;

(B) Applications for administrative permit revisions: within 60 days after receipt of a complete application pursuant to subdivision (c) of this rule; and,

(C) Applications for minor permit revisions: within 90 days after the receipt of a complete application pursuant to subdivision (c) of this rule or within 15 days after the end of EPA's 45-day review period, whichever is later.

(D) Applications for group processing of multiple minor permit revisions: within 180 days after the receipt of the first complete application, in a group of multiple minor permit revision

- applications, pursuant to subdivision (c) of this rule or within 15 days after the end of EPA's 45-day review period, whichever is later.
- (E) Applications for de minimis significant permit revisions: within 180 days after the receipt of a complete application pursuant to subdivision (c) of this rule or within 15 days after the end of EPA's 45-day review period, whichever is later.
- (3) For an application for an initial permit for a new facility or a significant permit revision, that includes a request for a Permit to Construct, the Executive Officer shall issue a permit or deny a permit application according to the following schedule:
- (A) Applications for which an Environmental Impact Report is not required and where EPA does not object to the proposed Title V permit or revision within the 45-day review period: within 265 days after the application is deemed complete;
 - (B) Applications containing a demonstration of an early toxic reduction to comply with Section 112(i)(5) of the federal Clean Air Act, for which an Environmental Impact Report is not required and where EPA does not object to the proposed Title V permit or revision within the 45-day review period: within 265 days after the application is deemed complete;
 - (C) Applications for which an Environmental Impact Report is not required and EPA objects to the proposed permit or revision: within 355 days after the application is deemed complete;
 - (D) Applications for which an Environmental Impact Report is required: within the timeframes defined in subparagraphs (i)(3)(A) or (B) or (C) of this rule plus 180 days.
- (4) A permit, permit revision, or renewal may be issued only if all the following conditions have been met:
- (A) The Executive Officer has received a complete application for a permit, permit revision, or, permit renewal.
 - (B) Except for administrative permit revisions, minor permit revisions, and de minimis significant permit revisions, the Executive Officer and the facility have complied with the requirements for public participation under Rule 3006.

- (C) Except for administrative permit revisions the Executive Officer has complied with the requirements for notifying and responding to affected states under subdivision (m) of this rule.
 - (D) The conditions of the permit provide for compliance with all regulatory requirements.
 - (E) The EPA Administrator has received a copy of the proposed permit, any notices required under Rules 3003, 3005, and 3006, and any revisions to the proposed permit in response to public or affected State comments and has not objected to issuance of the permit under 40 CFR Part 70, Section 70.8(c) within the time period specified therein.
- (5) If the Executive Officer fails to act within the time required by this rule on an application for permit renewal, the EPA may invoke its authority under Section 505(e) of the federal Clean Air Act to terminate or revoke and reissue the permit.
 - (6) Initial Phase One Title V permits, which are required to be issued within three years after the effective date, shall be classified by the Executive Officer into Groups A, B, and C, such that each group contains one-third of the Title V sources identified by the District for Phase One, as far as practicable.
 - (A) The Executive Officer shall issue Title V permits to the groups according to the following schedule, measured from the effective date: Group A within one year; Group B within two years; and Group C within three years, as far as practicable.
 - (B) A facility assigned to any group may not petition the Executive Officer or the Hearing Board to change their group designation.
 - (7) The Executive Officer shall, to the extent possible, simultaneously commence any required noticing and review by the public, EPA and affected States.
- (j) EPA Review
 - (1) The Executive Officer shall submit to the EPA Administrator:
 - (A) each application for initial permit, permit renewal, minor permit revision, de minimis significant permit revision and significant permit revision;

- (B) each proposed permit for initial permit, renewal permit, or permit revision, excluding administrative permit revisions;
 - (C) any revisions to the proposed permit in response to public or affected State comments;
 - (D) a copy of any notices required by Rules 3003, 3005, or 3006; and,
 - (E) each final Title V permit, within 5 working days of permit issuance.
- (2) To the extent practicable, the information required by paragraph (j)(1) of this rule shall be provided in a computer-readable format compatible with EPA's national database management system.
 - (3) The Executive Officer shall keep the information required by paragraph (j)(1) of this rule for 5 years following the issuance of a final Title V permit so that the EPA Administrator may ascertain whether the Title V program complies with the requirement of Part 70 and the federal Clean Air Act. Such information shall be made available to EPA within a reasonable time of the request.
 - (4) At least 10 days prior to the end of EPA's review period of a proposed permit, the Executive Officer shall notify the applicant, the EPA Administrator and any affected State, in writing, of any refusal to accept all recommendations for the proposed permit that any affected State submitted during the public or affected State review periods. The notice shall include the Executive Officer's reasons for not accepting any such recommendations.
- (k) EPA Objection
- (1) No permit or permit revision for which an application must be transmitted to EPA pursuant to subdivision (j) of this rule may be issued if the EPA objects to its issuance in writing within 45 days of receipt of the proposed permit and all necessary supporting information, or within 90 days if the EPA provides a written request to delay the permit issuance on the basis that an additional 45 days is necessary to review the public and affected State comments made to the proposed permit. The objection shall include a statement of the reasons for the objection and a description of the terms and conditions that the permit must include to respond to the objections.
 - (2) Within 14 days of receipt of EPA's objection to a proposed permit, the District shall notify the applicant of EPA's objection.

- (3) Within 90 days after receipt of timely objection from EPA that meets the requirements of paragraph (k)(1) of this rule, the Executive Officer shall evaluate EPA's objection, negotiate with EPA over any disagreements, and do one of the following:
 - (A) deny the proposed permit; or
 - (B) revise and submit to EPA a new proposed permit in response to EPA's objection.
 - (4) If the Executive Officer fails, within the time specified in paragraph (k)(3) of this rule, to either deny the proposed permit or revise and submit a new proposed permit in response to the objection, EPA may issue or deny the permit in accordance with 40 CFR Part 70, Section 70.8(c).
- (l) Public Petitions to the EPA Administrator
- (1) If the EPA Administrator does not object in writing pursuant to subdivision (k) of this rule, any person may petition the EPA Administrator within 60 days after the expiration of the EPA Administrator's 45-day review period to make such objection, as provided for in 40 CFR Part 70, Section 70.8(d).
 - (2) Any petition under this subdivision shall be based only on objections to the proposed permit that were raised with reasonable specificity during the public comment period provided for in Rule 3006, unless the petitioner demonstrates, to the EPA Administrator, that it was impracticable to raise such objections within such period, or unless the grounds for objection arose after such period.
 - (3) If the EPA Administrator objects to the proposed permit as a result of a petition filed under this subdivision, the Executive Officer shall not issue the permit until EPA's objection has been resolved. If the permit was issued after the end of EPA's 45-day review period and prior to receipt of EPA's objections, a petition under this rule section does not stay the effectiveness of a permit or its requirements.
 - (4) If the permit has been issued prior to receipt of an EPA objection under this rule, EPA may revise, terminate, or revoke such permit.
- (m) Review by Affected States
- (1) Except for administrative permit revisions, the Executive Officer shall give notice of each proposed permit to any affected State on or before the notice is provided to the EPA.

- (2) Any affected State may provide recommendations in writing, based upon applicable requirements or requirements of 40 CFR Part 70, with respect to the proposed permit, within 30 days of receipt of the notice.
 - (3) The Executive Officer shall respond to affected State recommendations in accordance with paragraph (j)(4) of this rule.
- (n) Prohibition of Default Issuance
- (1) Except for administrative permit revisions, no Title V permit may be issued until after EPA and affected States have had an opportunity to review the proposed permit in accordance with this rule, unless EPA has waived such review for EPA and the affected States.
 - (2) Except for administrative permit revisions, minor permit revisions, and de minimis significant permit revisions, no Title V permit may be issued until after the public has had an opportunity to review the proposed permit in accordance with Rule 3006.
 - (3) No provision of these rules shall be construed to require that a Title V permit or renewal be issued after a certain time if the Executive Officer fails to take action on the application.
 - (4) Failure of the Executive Officer to take action on an application within the time specified by these rules shall not constitute final permit action except for purposes of a judicial or authorized administrative proceeding seeking to compel the Executive Officer to take final action on the application.

ATTACHMENT F4

(Adopted October 8, 1993)(Amended August 11, 1995)
(Amended November 14, 1997) (Amended December 12, 1997)(Amended TBD)

[RULE INDEX TO BE ADDED AFTER RULE ADOPTION]

PROPOSED AMENDED RULE 3004. PERMIT TYPES AND CONTENT

(a) Permit Content for Non-RECLAIM Facilities

Each Title V permit shall include:

- (1) Emissions limitations and those operational requirements that assure compliance with all regulatory requirements at the time of permit issuance.
- (2) The permit expiration date and a statement that the facility's right to operate terminates on the permit expiration date unless the facility is protected by an application shield pursuant to subdivision (b) of Rule 3002 due to the filing of a timely and complete application for renewal.
- (3) The origin and authority of each permit term or condition, and the identification of any difference in form from the applicable requirement upon which the term or condition is based.
- (4) Monitoring, recordkeeping, and reporting requirements, as follows:
 - (A) All emissions monitoring and analysis procedures or test methods required by regulatory requirements;
 - (B) Monitoring and recordkeeping sufficient to substantiate the facility's compliance with the terms and conditions of Title V permit. With respect to recordkeeping, the permit shall require, where applicable, records of required monitoring information that include, but not limited to, the following:
 - (i) the date, place as defined in the permit, and time of sampling or measurements;
 - (ii) the date(s) analyses were performed;
 - (iii) the company or entity that performed the analyses;
 - (iv) the analytical techniques or methods used;
 - (v) the results of such analyses; and
 - (vi) the operating conditions as existing at the time of sampling or measurement;
 - (C) Where the applicable requirement does not require periodic monitoring or testing, the permit shall include periodic monitoring or recordkeeping sufficient to yield reliable data from a relevant

time period that is representative of the source's compliance with the terms of the permit. Recordkeeping provisions may be sufficient to meet the requirements of this subparagraph;

- (D) Requirements concerning the use, maintenance, and, where appropriate, installation of monitoring and recordkeeping equipment or methods;
 - (E) Keeping all records of required monitoring data specified in permits, regulatory requirements and District monitoring protocols or rules for a period of at least five years from the date of the monitoring sample, measurement, report, or application; and,
 - (F) Submittal, to the Executive Officer, of reports of any required monitoring at least every six months. All instances of deviations from permit requirements shall be clearly identified in such reports.
- (5) A requirement for prompt reporting, as defined by District protocol or rule or permit condition, of deviations from permit requirements, including those attributable to upset conditions, the probable cause of such deviations, and any corrective actions or preventive measures taken.
- (6) A severability clause consistent with subdivision (b) of Rule 3007.
- (7) Provisions stating the following:
- (A) The holder of the Title V permit shall comply with all regulatory requirements and facility permit conditions, except as provided for ~~in subdivision (g) of Rule 3002 or~~ in an alternative operating condition imposed pursuant to Rule 518.2;
 - (B) Any non-compliance with subparagraph (a)(7)(A) of this rule, shall be a violation of the federal Clean Air Act pursuant to paragraph (c)(2) of Rule 3002;
 - (C) The facility permit may be revised, revoked, reopened and reissued, or terminated for cause, including, but not limited to, failure to comply with regulatory requirements, permit terms or conditions;
 - (D) The filing of any application for permit revision, revocation, or termination, or of a notification of planned changes or anticipated non-compliance, does not stay any permit condition;
 - (E) The permit does not convey any property rights of any sort or any exclusive privilege;

- (F) The applicant for, or holder of, a Title V permit shall furnish timely information and records to the Executive Officer when requested pursuant to subdivision (d) or (e) of Rule 3002 ;
 - (G) The applicant for, or holder of, a Title V permit shall pay all required fees specified in Regulation III - Permit Fees;
 - (H) It shall not be a defense for a person in an enforcement action, including those listed in paragraph (c)(2) of Rule 3002, that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit, ~~except as provided for in subdivision (g) of Rule 3002;~~ and,
 - (I) The conditions under which the permit will be reopened as specified in paragraph (g)(1) of Rule 3005.
- (8) Provisions for alternative operating scenarios consistent with regulatory requirements, and including the requirement to maintain a contemporaneous log of the scenario under which the facility is operating.
 - (9) If requested by the applicant, terms and conditions for trading of emissions increases and decreases in a permitted facility, provided that regulatory requirements allow such trading without a case-by-case approval of each emission trade. Such terms and conditions:
 - (A) Shall include all terms required by subdivisions (a) and (b) of this rule to determine compliance;
 - (B) May extend the permit shield described in subdivision (c) of this rule to all terms and conditions that allow such emission trading; and,
 - (C) Must meet all applicable requirements and requirements of this regulation.
 - (10) Compliance requirements, including:
 - (A) Compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit, consistent with paragraph (a)(4) of this rule.
 - (B) Inspection and entry requirements that require that, upon presentation of appropriate credentials, the holder of the Title V permit shall allow the Executive Officer or authorized representative to:

- (i) Enter the premises where a Title V facility is located, emission-related activity is conducted, or records are kept under the conditions of the permit;
 - (ii) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;
 - (iii) Inspect at reasonable times, any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and,
 - (iv) Sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or regulatory requirements.
- (C) For facilities that are not in compliance with all applicable regulatory requirements at the time of permit issuance or permit renewal, a requirement to comply with all requirements of an alternative operating condition, variance or order for abatement issued by the District Hearing Board. The permit shall include a compliance schedule of remedial measures, including an enforceable sequence of actions with milestones, to be taken by the owner or operator to achieve compliance. This compliance schedule shall resemble and be at least as stringent as that contained in any:
- (i) Judicial consent decree or administrative order to which the source is subject; or
 - (ii) Findings or decisions issued by the District Hearing Board as a result of any administrative proceeding concerning the source.
- (D) Progress reports consistent with the terms established in the schedule of compliance, as specified in subparagraph (a)(10)(C) of this rule, to be submitted at least semi-annually, or at a more frequent period if specified in the schedule. Such progress reports shall contain:
- (i) Dates for achieving the activities, milestones or compliance required in the schedule of compliance and dates when such activities, milestones or compliance were achieved; and,

- (ii) An explanation of why any dates in the schedule of compliance were not, or will not be met, and any preventative or corrective measures adopted.
- (E) Requirements for compliance certification with terms and conditions contained in the permit, including emissions limitations, standards, and work practices. Permits shall include each of the following:
 - (i) The frequency (not less than annually or such more frequent periods as specified in the regulatory requirements, schedule of compliance or by the Executive Officer in the permit) of the submissions of compliance certifications;
 - (ii) In accordance with paragraph (a)(4) of this rule, a means for monitoring the compliance of the facility with its emissions limitations, standards, and work practices;
 - (iii) A requirement that the compliance certification include the following:
 - (a) The identification of each term or condition of the permit that is the basis of the certification;
 - (b) The compliance status for the duration of the reporting period;
 - (c) Whether compliance was continuous or intermittent;
 - (d) The method(s) used for determining the compliance status of the Title V facility, currently and over the reporting period specified in paragraph (a)(4) of this rule; and,
 - (e) Such other facts that the Executive Officer may require to determine the compliance status of the facility.
 - (iv) The requirement that all compliance certifications be submitted to the EPA Administrator as well as the Executive Officer; and,
 - (v) Such additional requirements as may be specified pursuant to Sections 114(a)(3) and 504(b) of the federal Clean Air Act.
- (F) Such other provisions as the Executive Officer may require.

- (11) To the extent feasible, identification of those permit conditions which are not federally enforceable.
- (12) Provisions that all documents, including compliance documents, required by a Title V permit or Regulation XXX to be submitted to the District or EPA shall contain a certification consistent with paragraph (c)(7) of Rule 3003 by a responsible official.
- (13) A listing of all equipment not described by subdivision (h) of this rule that are subject to any source-specific regulatory requirements.

(b) Permit Content for RECLAIM Facilities

Each Title V permit for RECLAIM facilities shall include:

- (1) all applicable provisions specified in Rule 2006 - Permits;
- (2) provisions specified in subdivision (a) of this rule; and,
- (3) a provision stating that permit revisions are not required for emission trading to the extent allowed by Regulation XX.

(c) Permit Shield

- (1) The Executive Officer may expressly include in a Title V permit a provision stating that compliance with the conditions of the permit shall be deemed compliance with any regulatory requirements as of the date of permit issuance, provided that:

- (A)
 - (i) Such regulatory requirements are included and are specifically identified in the permit; or,
 - (ii) The Executive Officer, in acting on the permit application or revision determines in writing that other requirements specifically identified are not applicable to the facility, and the permit includes this determination or a concise summary thereof.

- (B) The facility specifically requests a permit shield and indicates the following:

- (i) Specific process units for which a permit shield is sought or indicates the shield is for the entire facility ;
- (ii) Reason that a permit shield is sought; and,
- (iii) Proposed duration of a permit shield.

- (2) A permit that does not expressly state that a permit shield exists shall be conclusively presumed not to provide such a shield.

- (3) Nothing in this rule or in any Title V permit shall alter or affect the following:
 - (A) The provisions of Section 303 of the federal Clean Air Act (emergency orders) including the authority of the EPA Administrator.
 - (B) The liability of an owner or operator of a facility for any violation of regulatory requirements prior to, or at the time of, permit issuance;
 - (C) The applicable requirements of the acid rain program, consistent with Section 408(a) of the federal Clean air Act;
 - (D) The ability of EPA to obtain information from a facility pursuant to Section 114 of the federal Clean Air Act;
 - (E) The applicability of State or local requirements that are not "applicable requirements", as defined in Rule 3000, at the time of permit issuance but which do apply to the facility, such as toxics requirements unique to the State; or,
 - (F) The applicability of regulatory requirements with compliance dates after the permit issuance date.
- (4) A request for a permit shield made outside an application for an initial permit or a permit renewal, shall be applied for as a significant permit revision.
- (5) A permit shield shall not apply to any operational change required pursuant to paragraph (i)(1) of Rule 3005.
- (d) Temporary Source Permits
 - (1) Except in the cases of an affected source under the acid rain program or portable equipment registered to operate statewide pursuant to Article 5 - Portable Engine and Equipment Registration, Title 13 of the California Code of Regulations, an applicant may request, and the Executive Officer may issue, a single Title V permit to a temporary source authorizing emissions from similar operations by the same facility owner or operator at multiple temporary locations.
 - (2) An application for a temporary source permit shall be denied unless the permit applicant demonstrates that the operation covered by the permit is temporary, involves at least one change of location during the term of the

permit, and does not operate at any one location or stationary facility for more than twelve consecutive months.

- (3) Each operator of a temporary source shall notify the Executive Officer in writing, postmarked at least 10 calendar days in advance of each change in location, with the following information:
 - (A) The address of the new equipment location;
 - (B) The date operations are to begin at the new location; and,
 - (C) Any terms of the temporary source permit which will be applicable at the new location but were not applicable at the previous location.
- (4) Except as modified by this rule, an application for a temporary source permit is governed by all Regulation XXX rules.
- (5) In addition to the requirements of subdivision (a) of Rule 3004, a temporary source permit shall include:
 - (A) Conditions that will assure compliance with all regulatory requirements at all authorized locations;
 - (B) A requirement that the owner or operator notify the Executive Officer of location changes in compliance with paragraph (d)(3) of this rule; and,
 - (C) Conditions that will assure that the operation is temporary, involves at least one change of location during the term of the permit, and does not operate at any one location or facility for more than twelve consecutive months.

(e) **General Permits**

The Executive Officer may issue a general permit covering numerous similar equipment after notice and opportunity for EPA review and public participation in compliance with Rules 3005 and 3006.

- (1) To qualify as a general permit, the equipment category shall meet all of the following criteria:
 - (A) the general permit complies with all regulatory requirements; and,
 - (B) the equipment category does not require a Rule 1401 - New Source Review of Carcinogenic Air Contaminants, evaluation.
- (2) All general permits shall contain:
 - (A) criteria by which equipment qualifies for the permit; and,
 - (B) standard conditions and terms and emissions limits.

- (3) Once a general permit has been issued by the Executive Officer, Title V facilities with equipment that would qualify for a general permit may apply to the Executive Officer for coverage under the terms of the general permit. General permits are not authorized for affected sources under the acid rain program.
 - (4) Unless otherwise provided in the applicable general permit, an applicant for coverage under the general permit shall submit an application containing all the information required by subdivision (b) of Rule 3003 and shall include a certification by a responsible official complying with paragraph (c)(7) of Rule 3003.
 - (5) The Executive Officer shall deny the application for coverage under a general permit unless the application demonstrates that the equipment would qualify for coverage as specified in the terms of the permit, and has the ability to comply with all the conditions and terms of the general permit.
 - (6) Unless otherwise provided in the applicable general permit, the Executive Officer shall determine if the application is complete pursuant to subdivision (c) of Rule 3003 and shall approve or deny the application for coverage under the general permit within thirty days after the application is deemed complete.
 - (7) Issuance or denial of an application for coverage under a general permit shall not be a final permit action for purposes of judicial review.
 - (8) If the equipment that has been approved for coverage under a general permit is later determined not to qualify for the conditions and terms of the general permit, the Title V facility shall be subject to enforcement action for operating without a Title V permit.
- (f) Permit Expiration and Renewal
- (1) Except for solid waste incineration facilities subject to standards under Section 129(e) of the Clean Air Act, a Title V permit shall expire 5 years from the date of issuance unless such permit has been renewed pursuant to this regulation.
 - (2) A Title V permit for a solid waste incineration facility combusting municipal waste subject to standards under Section 129(e) of the Clean Air Act shall expire 12 years from the date of issuance unless such permit has been renewed pursuant to this regulation. These permits shall be reviewed by the Executive Officer at least every five years from the date of issuance.

- (3) Except as provided in paragraph (f)(4) of this rule, on and after the date of expiration of a Title V permit a person shall not operate a Title V facility, or equipment located at a Title V facility, unless such permit has been renewed pursuant to this regulation.
 - (4) If a timely and complete application for permit renewal has been filed, consistent with paragraph (a)(5) of Rule 3003, but the Executive Officer has failed to issue or deny the renewal permit before the end of the term of the previous permit, then the previous permit shall not expire and all the terms and conditions of the previous permit, including any permit shield, shall remain in effect until the Executive Officer issues or denies the renewal permit.
 - (5) The provisions of paragraph (f)(4) of this rule do not apply to a Title V facility if the applicant for, or holder of, the Title V permit has failed to submit, by the deadline specified in writing by the Executive Officer, any additional information identified as being needed to process the application.
 - (6) Permits being renewed are subject to the same procedural requirements that apply to initial new source Title V permit issuance, including those for public participation and affected State and EPA review.
- (g) **Federal Enforceability**
All terms and conditions in a Title V permit, including any provisions designed to limit a facility's potential to emit, are enforceable by the EPA Administrator and citizens under the federal Clean Air Act, unless the term or condition is designated as not federally enforceable.
- (h) The following equipment shall not be listed on a Title V permit:
- (1) Permitted portable equipment, provided that such equipment:
 - (A) is not a major source as defined by 40 CFR Part 70, Section 70.2;
 - (B) usage does not conflict with the terms or conditions of the Title V permit of the facility visited by the portable equipment; and
 - (C) is not located at the facility for more than twelve consecutive months after commencing operation.
 - (2) Equipment that, pursuant to Rule 219 - Equipment Not Requiring a Written Permit Pursuant to Regulation II, do not require a written permit and are not subject to any source-specific regulatory requirements, unless otherwise

required under Regulation XX - Regional Clean Air Incentives Market (RECLAIM).

- (3) Rule 441 - Research Operations, provided that such research operation:
 - (A) does not individually meet the applicability criteria pursuant to Rule 3001; and,
 - (B) is not a support facility making a significant contribution to the product of a collocated facility.
- (4) Non-road engines, as defined by 40 CFR Part 89, Section 89.2, manufactured on or after November 15, 1990 or another date subsequently determined by EPA.
- (5) Military tactical support equipment registered to operate statewide pursuant to Article 5 - Portable Engine and Equipment Registration, Title 13 of the California Code of Regulations.

ATTACHMENT F5

F(Adopted March 16, 2001)(Amended November 5, 2010)(Amended TBD)

[RULE INDEX TO BE ADDED AFTER RULE ADOPTION]

PROPOSED AMENDED RULE 3008. POTENTIAL TO EMIT LIMITATIONS

(a) Purpose

The purpose of this rule is to exempt low-emitting facilities with actual emissions below a specific threshold from federal Title V permit requirements by limiting the facility's potential to emit.

(b) Applicability

This rule shall apply to any facility which would, if it did not comply with the limitations set forth in either paragraphs (d)(1) or (d)(2) of this rule, have the potential to emit air contaminants equal to or in excess of the thresholds specified in Table 2, subdivision (b) of Rule 3001 – Applicability, ~~or for GHGs 100,000 or more tpy CO₂e.~~

(c) Definitions

All terms shall retain the definitions in Rule 3000 - General, unless otherwise defined herein.

(1) 12-MONTH PERIOD means a period of twelve (12) consecutive months determined on a rolling basis with a new 12-month period beginning on the first day of each calendar month.

(2) ACTUAL EMISSIONS means the emissions of regulated air pollutants from a facility on a 12-month basis. Valid continuous emission monitoring data or source test data shall be preferentially used to determine actual emissions. In the absence of valid continuous emissions monitoring data or source test data, the basis for determining actual emissions shall be: throughputs of process materials; throughputs of materials stored; usage of materials; data provided in manufacturer's product specifications; material volatile organic compound (VOC) content reports or laboratory analyses; other information required by this rule and applicable District, state, and federal regulations; or information requested by or available to the District. All calculations of actual emissions shall use United States Environmental Protection Agency (EPA), California Air Resources Board (CARB) or District approved methods, including emission factors and assumptions.

- (3) ALTERNATIVE OPERATIONAL LIMIT means a limit on a measurable parameter, such as hours of operation, throughput of materials, use of materials, or quantity of product, as specified in paragraph (d)(2).
- (4) DE MINIMIS FACILITY means any facility that emits in every 12-month period quantities of actual emissions as specified in either subparagraph (A) or (B) below:
 - (A) The facility emits:
 - (i) less than or equal to four (4) tons per year of each regulated air pollutant (excluding hazardous air pollutants (HAPs)); and
 - (ii) less than or equal to four (4) tons per year of any single HAP, or twenty (20) percent of any newly adopted major source threshold for a single HAP that EPA may establish by rule, whichever is less; and
 - (iii) less than or equal to five (5) tons per year of any combination of HAPs; and
 - (iv) less than 25,000 tons per year CO₂e for GHG emission.
 - (B) At least 90 percent of the facility's emissions are associated with an operation for which the throughput is less than or equal to any of the following quantities specified:
 - (i) 1,120 gallons of any combination of solvent-containing materials but no more than 440 gallons of any one solvent-containing material, provided that the materials do not contain the following: methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene;
 - (ii) 600 gallons of the combination of all solvent-containing materials where the materials contain the following: methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene, but not more than 240 gallons of any one solvent-containing material;
 - (iii) 960 gallons of solvent-containing (or VOC containing) material, used at a paint spray unit(s);

- (iv) 5,722,667 gallons of gasoline dispensed from equipment with Phase I and II vapor recovery system as defined in Rule 461;
 - (v) 972,000 gallons of gasoline dispensed from equipment with only Phase I vapor recovery system as defined in Rule 461;
 - (vi) 376,000 gallons of gasoline dispensed from equipment without Phase I and II vapor recovery system as defined in Rule 461;
 - (vii) 1,120 gallons of gasoline combusted;
 - (viii) 13,280 gallons of diesel fuel combusted;
 - (ix) 56,800,000 cubic feet of natural gas combusted;
 - (x) 19,184 gallons of ultraviolet/electron beam materials not to exceed 50 grams/liter.
- (5) EMISSION UNIT means any article, machine, equipment, operation, contrivance, or related groupings of such that may produce and/or emit any regulated air pollutant or HAP.
- (6) MAJOR SOURCE means any facility with a potential to emit, measured in tons per year per facility location, exceeding the emission threshold levels in Table 2, subdivision (b) of Rule 3001.
- (7) POTENTIAL TO EMIT means the maximum capacity of a facility to emit an air pollutant based on its physical and operational design. Any physical or operational limitation on the capacity of the facility to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation is legally and practically enforceable by the EPA and citizens or by the District.
- (8) PROCESS STATEMENT means a Declaration of Total Emissions filed pursuant to Rule 301(e)(7) or a 12-month report on permitted emission units from an operator of a facility certifying under penalty of perjury the following: throughputs of process materials; throughputs of materials stored; usage of materials; fuel usage; any available continuous emissions monitoring data; hours of operation; and any other information required by this rule or requested by the District.
- (d) Requirements

Any facility subject to this rule shall comply with either one of the following requirements:

(1) Emission Limitations

A facility subject to this rule has the following limits on emissions in every 12-month period:

- (A) 50 percent of the major source thresholds for regulated air pollutants (excluding HAPs and GHGs);
- (B) 5 tons per year of any single HAP, or fifty (50) percent of any newly adopted major source threshold for a single HAP that EPA may establish by rule, whichever is less; and
- (C) 12.5 tons per year of any combination of HAPs; ~~and (D) — less than 50,000 tons per year CO₂e for GHG emissions.~~

(2) Alternative Operational Limits

Any facility for which 90 percent of the facility's emissions from the permitted emission units in every 12-month period are associated with one of the operations identified in Table 1 shall comply with the corresponding operational limits in Table 1.

(e) Recordkeeping

- (1) The recordkeeping provisions below shall not apply to De Minimis facilities.
- (2) On and after May 15, 2001, the operator operating a facility subject to this rule under any one alternative operational limit, shall operate the facility in compliance with the alternative operational limit and comply with the following recordkeeping requirements as applicable:
 - (A) The operator shall maintain all purchase orders, invoices, and other documents to support information required to be maintained in a monthly log. Records required under this section shall be maintained on site for five years and be made available to the District, CARB, or the EPA upon request.
 - (B) The operator of a Gasoline Dispensing Facility equipped with Phase I and Phase II Vapor Recovery Systems shall maintain on site a monthly log of gallons of gasoline dispensed in the preceding month with a calculation of the total gallons dispensed in the previous 12 months.

- (C) The operator of a Degreasing or Solvent-Using unit shall maintain on site a monthly log of amount and type of solvent used in the preceding month with a calculation of the total gallons used in the previous 12 months.
 - (D) The operator of a Paint-Spraying Unit shall maintain on site a monthly log of the gallons of VOC-containing materials used in the preceding 12 months with a calculation of the gallons of volatile organic compound-containing materials that also contain hazardous air pollutants used in the previous 12 months, and a calculation of the total gallons of volatile organic compound-containing materials used in the previous 12 months.
 - (E) The operator of an Emergency Standby Engine with output less than 1,000 brake horsepower shall maintain on site a monthly log of hours of operation, amount of fuel used, and a calculation of the total hours operated and amount of fuel used in the previous 12 months shall be kept on site.
- (3) On and after May 15, 2001, the operator of a facility not operating under any alternative operational limit, shall comply with the following applicable recordkeeping requirements. The recordkeeping requirements of this rule shall not replace any recordkeeping requirement contained in an operating permit or in a District, State, or Federal rule or regulation.
- (A) The operator of a facility subject to this rule shall keep and maintain records for each permitted emission unit or groups of permitted emission units sufficient to determine actual emissions. Such information shall be summarized in a monthly log, maintained on site for five years and shall be made available to the District, CARB, or EPA staff upon request.
 - (B) **Coating/Solvent Emission Unit**
The operator of a facility subject to this rule that operates a coating/solvent emission unit or uses a coating, solvent, ink, or adhesive shall keep and maintain the records in accordance with Rule 109.
 - (C) **Organic Liquid Storage Unit**
The operator of a facility subject to this rule that contains an organic liquid storage unit shall keep and maintain the following records:

- (i) A monthly log identifying the liquid stored and monthly throughput; and
- (ii) Information on the tank design and specifications including control equipment.

(D) Combustion Emission Unit

The operator of a facility subject to this rule that contains a combustion emission unit shall keep and maintain the following records:

- (i) Information on equipment type, make and model, maximum design process rate or maximum power input/output, minimum operating temperature (for thermal oxidizers) and capacity, control device(s) type and description (if any) and all source test information; and
- (ii) A monthly log of hours of operation, fuel type, fuel usage, and fuel heating value.

(E) Emission Control Unit

The operator of a facility subject to this rule that contains an emission control unit shall keep and maintain the following records:

- (i) Information on equipment type and description, make and model, and emission units served by the control unit;
- (ii) Information on equipment design including where applicable: pollutant(s) controlled; control effectiveness; maximum design or rated capacity; inlet and outlet temperatures, and concentrations for each pollutant controlled; catalyst data (type, material, life, volume, space velocity, ammonia injection rate and temperature); baghouse data (design, cleaning method, fabric material, flow rate, air/cloth ratio); electrostatic precipitator data (number of fields, cleaning method, and power input); scrubber data (type, design, sorbent type, pressure drop); other design data as appropriate; all source test information; and
- (iii) A monthly log of hours of operation including notation of any control equipment breakdowns, upsets, repairs, maintenance and any other deviations from design parameters.

(F) General Emission Unit

The operator of a facility subject to this rule that contains an emission unit not included in subdivision (e) of this rule shall keep and maintain the following records:

- (i) Information on the process and equipment including the following: equipment type, description, make and model, maximum design process rate or throughput; control device(s) type and description (if any);
- (ii) Any additional information requested in writing by the Executive Officer;
- (iii) A monthly log of operating hours, each raw material used and its amount, each product produced and its production rate; and
- (iv) Purchase orders, invoices, and other documents to support information in the monthly log.

(f) Reporting

- (1) The reporting provisions below shall not apply to De Minimis facilities.
- (2) Notwithstanding the provisions in paragraph (f)(1), within 30 days of a written request by the District or the EPA, the operator of a facility not maintaining records pursuant to subdivision (e) shall demonstrate that the facility's emissions or throughput are not in excess of the applicable quantities set forth in the definition of De Minimis facility.
- (3) The operator of a facility subject to this rule shall provide to the District a process statement or monthly log at the time of 12-month renewal for the previous 12 months of operation. The operator shall certify that the monthly log is true, accurate and complete.
- (4) Any additional information requested by the Executive Officer shall be submitted to the Executive Officer within 30 days of the date of request.
- (5) The operator shall notify the Executive Officer within 7 days of any exceedance of the alternative operational limit.
- (6) Notwithstanding the provisions in paragraph (f)(3), a current Declaration of Total Emissions submitted in accordance with paragraph (e)(7)(A) of Rule 301 - Permitting and Associated Fees shall be deemed to meet the reporting requirements of this rule.

(g) Violations

- (1) Failure to comply with any of the applicable provisions of this rule shall constitute a violation of this rule. Each day during which a violation of this rule occurs is a separate offense.
- (2) A facility subject to this rule shall be subject to applicable federal requirements for a major source, including all other applicable rules of Regulation XXX, when the conditions specified in either subparagraph (g)(2)(A) or (g)(2)(B) below, occur;
 - (A) Commencing on the first day following every 12-month period in which the facility exceeds a limit specified in paragraph (d)(1) and any applicable alternative operational limit specified in paragraph (d)(2), or
 - (B) Commencing on the first day following every 12-month period in which the operator cannot demonstrate that the facility is in compliance with the limits in paragraph (d)(1) or any applicable alternative operational limit specified in paragraph (d)(2).

(h) Exemptions

This rule shall not apply to the following facilities:

- (1) Any facility, whose emissions, throughput, or operation, at any time after March 16, 2001 are greater than the quantities specified in paragraphs (d)(1) and (d)(2) and which meets both of the following conditions:
 - (A) The operator has notified the District at least 30 days prior to any exceedance that the operator intends to submit an application for a Title V permit, or otherwise obtain permit limits that are legally and practically enforceable by the EPA and citizens or by the District; and
 - (B) A complete Title V permit application is received by the District, or the permit action to otherwise obtain limits that are legally and practically enforceable by the EPA and citizens, or by the District is completed, within 12 months of the date of notification.
- (2) Any facility that has applied for a Title V permit in a timely manner and in conformance with Rule 3003 - Applications, and is awaiting final action by the District and EPA.

- (3) Any facility required to obtain an operating permit under Rule 3001 - Applicability for any reason other than being a major source.
- (4) Any facility with a valid Title V permit.
- (5) Notwithstanding paragraphs (h)(2) and (h)(4) of this rule, nothing in this subdivision shall prevent any facility which has applied for or had a Title V permit from qualifying to comply with this rule in the future in lieu of maintaining an application for a Title V permit, or upon rescission of a Title V permit provided the operator demonstrates to the satisfaction of the Executive Officer that the facility's emissions have been permanently reduced by accepting an enforceable permit change and is in compliance with the emission limitations in paragraph (d)(1) or an applicable alternative operational limit in paragraph (d)(2).
- (6) Any facility which has a valid operating permit with conditions limiting facility emissions that are legally and practically enforceable by the EPA and citizens or the District to below the applicable threshold(s) for a major source as defined in paragraph (c)(6).

**Table 1
Alternative Operational Limits**

Type of Operation	Usage Limit in Every 12-Month Period
<p>Printing, Publishing, and Packaging</p> <p>Flexography and Rotogravure (using water-based or UV-cured inks, coatings, and adhesives)</p> <p>Flexography and Rotogravure (using solvent-based inks)</p> <p>Heatset Offset Lithography</p> <p>Non-Heatset Offset Lithography (web- or sheet-fed)</p> <p>Screen Printers</p>	<p>In addition to the individual equipment usage limits listed, all Printing, Publishing, and Packaging operations have usage limits of 1,333 gallons of materials containing any one HAP, and 3,333 gallons of materials containing combination HAPs.</p> <p>40,000 pounds inks, coatings, adhesives, dilution solvents, & cleaning solvents</p> <p>10,000 pounds (before controls) of inks, coatings, adhesives, dilution solvents & cleaning solvents</p> <p>10,000 pounds (before controls) of ink, cleaning solvent, & fountain solution additives</p> <p>1,425 gallons of cleaning solvent & fountain solution additives</p> <p>1,425 gallons of solvent-based inks, cleaning solvents, adhesives, & coatings</p>
<p>Boilers ($\leq 100,000,000$ Btu/hr)</p>	<p>71,000,000 cubic feet of natural gas consumed</p>
<p>Bulk Gasoline Plants (equipped with vapor-balance system)</p>	<p>20,000 gallons per day of gasoline loaded & unloaded</p>
<p>Degreasers & Other Units if the solvents do not include: 1,1,1-trichloroethane, dichloromethane, tetrachloroethylene, or trichloroethylene</p>	<p>5,400 gallons of any combination of solvent-containing materials 2,200 gallons of any one solvent-containing material</p>
<p>Degreasers & Other Units if the solvents include: 1,1,1-trichloroethane, dichloromethane, tetrachloroethylene, or trichloroethylene</p>	<p>2,900 gallons of any combination of VOC-containing materials 1,200 gallons of any one solvent-containing material</p>
<p>Emergency Standby Engines ($< 1,000$ brake horsepower)</p>	<p>< 200 hours of operation</p>
<p>Gasoline Dispensing Facilities (Equipped with Phase I and Phase II vapor recovery systems)</p>	<p>7,150,000 gallons of gasoline dispensed</p>
<p>Hot Mix Asphalt Plants</p>	<p>125,000 tons of hot mix asphalt produced</p>
<p>Spray Booths</p>	<p>1,100 gallons of all VOC-containing materials, with no more than 110 gallons of VOC- & HAP-containing materials and the VOC content ≤ 1000 gram/liter, less water and exempt compounds</p>
<p>Ultraviolet/Electron Beam Cured Operations</p>	<p>21,582 gallons of ultraviolet/electron beam materials not to exceed 50 grams/liter.</p>

ATTACHMENT G



**South Coast
Air Quality Management District**

21865 Copley Drive, Diamond Bar, CA 91765-4178
(909) 396-2000 • www.aqmd.gov

SUBJECT: NOTICE OF EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

PROJECT TITLE: PROPOSED AMENDED REGULATION XXX – TITLE V PERMITS

Pursuant to the California Environmental Quality Act (CEQA) Guidelines, the South Coast Air Quality Management District (South Coast AQMD), as Lead Agency, has prepared a Notice of Exemption pursuant to CEQA Guidelines Section 15062 – Notice of Exemption for the project identified above.

If the proposed project is approved, the Notice of Exemption will be filed for posting with the county clerks of Los Angeles, Orange, Riverside, and San Bernardino Counties. The Notice of Exemption will also be electronically filed with the State Clearinghouse of the Governor's Office of Planning and Research for posting on their CEQAnet Web Portal which may be accessed via the following weblink: <https://ceqanet.opr.ca.gov/search/recent>. In addition, the Notice of Exemption will be electronically posted on the South Coast AQMD's webpage which can be accessed via the following weblink: <http://www.aqmd.gov/nav/about/public-notices/ceqa-notices/notices-of-exemption/noe---year-2025>.

**NOTICE OF EXEMPTION FROM THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

To: County Clerks for the Counties of Los Angeles, Orange, Riverside and San Bernardino; and Governor's Office of Planning and Research – State Clearinghouse

From: South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765

Project Title: Proposed Amended Regulation XXX – Title V Permits

Project Location: The proposed project is located within the South Coast Air Quality Management District's (South Coast AQMD) jurisdiction, which includes the four-county South Coast Air Basin (all of Orange County and the non-desert portions of Los Angeles, Riverside, and San Bernardino counties), and the Riverside County portion of the Salton Sea Air Basin and the non-Palo Verde, Riverside County portion of the Mojave Desert Air Basin.

Description of Nature, Purpose, and Beneficiaries of Project: Regulation XXX – Title V Permits contains the permitting process and requirements established by the United States Environmental Protection Agency (U.S. EPA) in the 1990 amendments to the federal Clean Air Act. Proposed Amended Regulation XXX – Title V Permits (Proposed Amended Regulation XXX) is comprised of: 1) Proposed Amended Rule 3002 – Requirements (PAR 3002) which seeks to remove the emergency affirmative defense provisions as directed by U.S. EPA's decision on August 21, 2023; 2) Proposed Amended Rule 3001 – Applicability (PAR 3001), PAR 3002 and Proposed Amended Rule 3008 – Potential to Emit Limitations (PAR 3008) which seek to remove the greenhouse gas (GHG) emission threshold for Title V permit applicability and GHG emission limits derived from U.S. EPA's Greenhouse Gas Tailoring Rule to be consistent with the U.S. Supreme Court's decision in *Utility Air Regulation Group v. EPA*, 573 U.S. 302 (2014); 3) Proposed Amended Rule 3003 – Applications (PAR 3003) which seeks to correct a reference to Rule 3002; and 4) Proposed Amended Rule 3004 – Permit Types and Content (PAR 3004) which seeks to remove references which correspond to the proposed removal of provisions in PAR 3002. While implementation of the proposed project will not result in any changes in emissions, Proposed Amended Regulation XXX will benefit stakeholders by having improved clarity when implementing the applicable requirements.

Public Agency Approving Project:
South Coast Air Quality Management District

Agency Carrying Out Project:
South Coast Air Quality Management District

Exempt Status:

CEQA Guidelines Section 15061(b)(3) – Common Sense Exemption

CEQA Guidelines Section 15308 – Actions by Regulatory Agencies for Protection of the Environment

CEQA Guidelines Section 15321 – Enforcement Actions by Regulatory Agencies

Reasons why project is exempt: South Coast AQMD, as Lead Agency, has reviewed Proposed Amended Regulation XXX pursuant to: 1) CEQA Guidelines Section 15002(k) – General Concepts, the three-step process for deciding which document to prepare for a project subject to CEQA; and 2) CEQA Guidelines Section 15061 – Review for Exemption, procedures for determining if a project is exempt from CEQA. The corrections to and/or removal of references from provisions in PAR 3001, PAR 3002, PAR 3003, PAR 3004, and PAR 3008 in response to U.S. EPA's direction and/or legal decisions are administrative in nature and are not expected to require any physical modifications. Thus, it can be seen with certainty that there is no possibility that the proposed project may cause a significant adverse effect on the environment. Therefore, the proposed project is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) – Common Sense Exemption. The proposed project is also categorically exempt from CEQA pursuant to: 1) CEQA Guidelines Section 15308 – Actions by Regulatory Agencies for Protection of the Environment because the proposed amendments are designed to further protect or enhance the environment; and 2) CEQA Guidelines Section 15321 – Enforcement Actions by Regulatory Agencies because the proposed amendments clarify the enforcement requirements. Further, there is no substantial evidence indicating that any of the exceptions set forth in CEQA Guidelines Section 15300.2 – Exceptions apply to the proposed project.



Proposed Amended Regulation XXX – Title V Permits

Board Meeting
January 10, 2025

Regulation XXX and Rule 3002 Background

- Title V facilities are major sources which emit the largest quantities of pollutants as determined by meeting and/or surpassing applicable emission thresholds
- Regulation XXX – Title V Permits, encompasses the permitting process and requirements for Title V Facilities
- Rule 3002 – Requirements, establishes provisions for Title V facilities including obtaining a Title V permit and complying with the conditions of the permit, including:
 - **Emergency Affirmative Defense Provisions:** Can be used to mitigate or prevent emission violation penalties during a qualified emergency provided certain conditions are met
 - **Greenhouse Gas Tailoring Rule Provisions:** Allows use of greenhouse gas emissions for Title V permit applicability

Need for Amendments Due to Court Rulings

To be consistent with U.S. EPA and the U.S. Supreme Court: proposed amendments will remove provisions and references relating to the Emergency Affirmative Defense and Greenhouse Gas Tailoring Rule provisions

- After rulings made by the U.S. Court of Appeals, U.S. EPA removed emergency affirmative defense provisions from Title V permit regulations to ensure the authority of courts to assess civil penalties¹
 - August 2025 deadline for South Coast AQMD to remove provisions
- U.S. Supreme Court ruled that U.S. EPA may not treat greenhouse gases as a pollutant for Title V permit applicability²

¹ [HTTPS://WWW.FEDERALREGISTER.GOV/D/2023-15067](https://www.federalregister.gov/d/2023-15067)

² [HTTPS://WWW.EPA.GOV/NSR/CLEAN-AIR-ACT-PERMITTING-GREENHOUSE-GASES](https://www.epa.gov/nsr/clean-air-act-permitting-greenhouse-gases)

Proposed Amendments to Regulation XXX

Rule 3002 Emergency Affirmative Defense Provisions Changes

- Delete subdivision (g) - Emergency Provisions
- Delete reference to subdivision (g) in paragraph (c)(3)

Rule 3002 Greenhouse Gas Tailoring Rule Changes

- Delete paragraphs (a)(3) and (a)(4)

Rule Language Consistency Changes

- Delete references to emergency affirmative defense and Greenhouse Gas Tailoring Rule provisions in Reg XXX Rules 3001, 3003, 3004, and 3008

Impact Assessments

Emission Reductions and Cost

- No emission reductions expected
- No additional costs since Title V permits will be updated during periodic permit renewal or revisions

Socioeconomic Impact Assessment

- Not required because the proposed amendments are administrative and will not affect air quality or emission limits

California Environmental Quality Act (CEQA)

- Project qualifies for a CEQA exemption

Staff is not aware of any remaining key issues

Staff Recommendations

- Adopt resolution:
 - Determining that Proposed Amended Regulation XXX – Title V Permits is exempt from the requirements of the California Environmental Quality Act; and
 - Amending Regulation XXX – Title V Permits